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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	09/777,500
Filing Date	February 5, 2001
First Named Inventor	Sincaglia
Art Unit	2172
Examiner Name	Ehichioya, Fred I.
Attorney Docket Number	109905-139819

ENCLOSURES *(Check all that apply)*

- [✓] Fee Transmittal Form
  - [✓] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
  - [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
  - [ ] Landscape Table on CD
- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [✓] Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- [ ] Proprietary Information
- [ ] Status Letter
- [✓] Other Enclosure(s) (please identify below):
  Return Receipt Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Schwabe, Williamson & Wyatt, P.C.		
Signature	Al Au		
Printed name	Al AuYeung		
Date	December 27, 2005	Reg. No.	35,432

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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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FEE TRANSMITTAL
For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT	($)	500

Complete if Known	
Application Number	09/777,500
Filing Date	February 5, 2001
First Named Inventor	Sincaglia
Examiner Name	Ehichioya, Fred I.
Art Unit	2172
Attorney Docket No.	109905-139819

METHOD OF PAYMENT (check all that apply)

☑ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 500393 Deposit Account Name: Schwabe Williamson et al.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 20 or HP =	_____	x _____	= _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 3 or HP =	_____	x _____	= _____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims Fee ($)	Fee Paid ($)
_____	_____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
_____ - 100 =	_____	/ 50 = _____ (round up to a whole number)	x _____	= _____

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	
Other (e.g., late filing surcharge): Appeal Brief Filing Fee	500

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 35,432	Telephone 503 222 9981
Name (Print/Type)	Aloysius T.C. AuYeung		Date December 27, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application for:
Sincaglia
Application No.: 09/777,500
Assignee: RealNetworks, Inc
Filed: February 5, 2001
For: SYSTEM FOR DISTRIBUTED MEDIA NETWORK AND META DATA SERVER

Examiner: Ehichioya, Fred I.
Art Group: 2172

CERTIFICATE OF TRANSMISSION/MAILING

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Typed or Printed: Yvette L. Chriscaden
Signature: Yvette L. Chriscaden

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P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S APPEAL BRIEF

Seattle, Washington
December 27, 2005

TO THE HONORABLE COMMISSIONER FOR PATENTS:

This brief is in support of a Notice of Appeal to the Board of Patent Appeals and Interferences filed in the above-identified application on October 25, 2005, appealing the final decision of the Examiner dated July 29, 2005, rejecting claims 9-15, 18, 20-21, 23, 33-38, and 45-50. Appellant respectfully requests consideration of this appeal by the Board of Patent Appeals and Interferences for allowance of the present patent application.

I. REAL PARTY IN INTEREST

The real party in interest in the above-identified application is RealNetworks, Inc, of Seattle, WA, the 100% owner of the assignee, Listen.com of San Francisco, CA, of the subject application. The assignment is recorded reel # 013427 frame # 0827 at the United States Patent and Trademark Office.

II. RELATED APPEALS

The appellant's undersigned attorney and the assignee identified above are not aware of other appeals or interferences that would directly affect or be directly affected by, or have a bearing on the Board's decision in the subject appeal.

III. STATUS OF THE CLAIMS

Appellant appeals the rejections of claims 9-15, 18, 20-21, 23, 33-38, and 45-50. {Claims 1-2, 5, 24-32, 39 -44 and 51-57 have been withdrawn. Claims 3-4, 6-8, 16-17, 19 and 22 have been cancelled.}

IV. STATUS OF AMENDMENTS

No amendments have been filed subsequent to the final rejection.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The claims are directed towards methods (and program products implementing the methods) for servicing media data requests in a meta data server. The method includes a client device (106 of Fig. 1) submitting a media data request (204 of Fig. 2) to a meta data server (103 of Fig. 1), and the meta data server, in response, retrieves meta data (205-208 of Fig. 2) from a meta data database (100 of Fig. 1), and transmits the retrieved meta data (209 of Fig. 2) to the client device. The meta data (does not satisfy the meta data request, but instead) identifies another media data server (109, 115, 121 or 127 of Fig. 1) having the requested media data. The client device may then re-request the meta data (210 of Fig. 2) from the identified media data server. Further, the identified media data server is separate and independently operated from the replying meta data server, including without continuous observation by, and communication with

the meta data server (page 3, lines 30-33). The novel method enables owners of media data to be able to exercise greater control over the use of the media data files.

VI. GROUNDS FOR REJECTION TO BE REVIEWED ON APPEAL

1. Claims 9, 33, and 45 stand rejected for failing to comply with the written description requirement of 35 U.S.C. §112, first paragraph. In the Final Office Action of July 29, 2005, the Examiner rebutted Applicant's arguments that amendments introduced in Applicant's response of May 5, 2005 for claims 9, 33, and 45 were fully supported and complied with the written description requirement.

2. Claims 9-15, 18, 20-21, 23, 33-38, and 45-50 stand rejected under 35 U.S.C. §103(a). The claims were rejected in view of U.S. Patent 6,412,004 issued to Ling Tony Chen et al. (Chen) in view of either U.S. Patent 6,453,355 issued to Anne Jones et al (Jones) alone, or in further combination with U.S. Patent 6,510,553 issued to Rajeeb Hazra (Hazra), U.S. Patent 6,385,596 issued to Philip R Wiser (Wiser), or U.S. Patent 6,209,787 issued to Takahito Lida (Lida).

VII. ARGUMENT

1. Rejection of claims 9, 33 and 45 under 35 U.S.C. §112, first paragraph, was improper because §112, first paragraph, does not require the invention being claimed to be described *ipsis verbis* (i.e. 'in the same words'), and when Applicant's disclosure is properly viewed in totality, a person of ordinary skill will appreciate Applicant was in possession of the invention being claimed at the time of the filing of the subject application.

The law of 35 U.S.C. §112, first paragraph's written description requirement is well settled. It has several goals, including "[t]he 'essential goal' of the description of the invention requirement ... to clearly convey the information that an applicant has invented the subject matter which is claimed." See e.g. *In re Barker,* 559 F.2d 588, 592 n.4, 194 USPQ 470, 473 n.4 (CCPA 1977) *cert. denied,* 434 U.S. 1064 (1978). [See also MPEP sec 2163.] Further, the written description can be met by descriptions that are not *ipsis verbis* (i.e. "in the same words"). See e.g. Vas-Cath, 935, F.2d at 1563, 19 USPQ2d at 1116; Martin v. Johnson, 454 F.2d 746,

751, 172 USPQ 391, 395 (CCPA 1972). Instead, the Examiner is to analyze the claims as a whole to determine what the claims cover and whether one of ordinary skill would have understood the inventor to be in possession of the claimed invention at the time of filing. See e.g. Martin v Mayer, 823 F.2d 500, 503, 3 USPQ2d 1333, 1335 (Fed. Cir. 1987).

As explained to the Examiner in Applicant's last response, with respect to the language at issue (i.e. the identified media data server is separate and independently operated from the replying meta data server, including without continuous observation by, and communication with the meta data server), Applicant has disclosed e.g. in the Summary of the Invention (page 3, lines 30-33) that one of the objectives of the Applicant's invention is to allow the media data owners to be able to exercise "greater control over the use of the media data files ... by allowing the media data owner to operate and maintain their own media data file servers." Further, in describing the various embodiments of Applicant's invention, referencing 15 sheets of figures (Fig. 1, Figs. 2A-2E, and Fig 3A to 3G), numerous connections and communications were described for Meta Data Server 103 and Client Device 106, and for Media Data Servers 109, 115, 121 and 127 and Client Device 106, however, nowhere in the specification and/or the drawings did Applicant illustrate and/or describe a connection and/or communication between Meta Data Server 103 and the Media Data Servers 109, 115, 121 and 127 (see e.g. Fig. 1). Thus, when Applicant's disclosure is viewed as a whole, Applicant submits one of ordinary skill in the art would appreciate Applicant has intended Meta Data Server 103 and Media Data Servers 109, 115, 121 and 127 to operate independent of each other, without continuous communication with each other, or continuous observations of Media Data Servers 109, 115, 121 and 127 by Meta Data Server 103. Any interpretation to the contrary would undermine the goal of allowing the media data owners to be able to exercise "greater control over the use of their media data files."

In responding to Applicant's arguments, the Examiner stated in paragraph 2 of the Final Office Action, "However, examiner does not see "separate and independently operated" on page 3, lines 30-33 or any other parts of the specification". Applicant submits the Examiner's statement is a clear indication that the Examiner is applying an *ipsis verbis* requirement that is in violation of the well established jurisprudence of the "written description requirement."

Thus, in view of the foregoing, Applicant respectfully submits that the Examiner has erred, and requests that the Examiner's rejections under §112, first paragraph, be reversed.

2. Rejections of claims 9-15, 18, 20-21, 23, 33-38, and 45-50 under 35 U.S.C. §103(a) were improper because when the invention being claimed is properly viewed as a whole, as required by law, the invention is not suggested by the cited references.

The law of §103(a) is also well settled. To establish obviousness under 35 U.S.C. § 103, the Examiner must view the invention as a whole. Further, the Examiner is to perform the obviousness analysis in accordance with the standard set forth by the Supreme Court in *Graham v. John Deere Co.* That standard requires that the Examiner (1) determine the scope and content of the prior art; (2) ascertain the differences between the prior art and the claims in issue; (3) resolve the level of ordinary skill in the art; and (4) evaluate evidence of secondary considerations. 383 U.S. 1, 17-18 (1966). [*See also* MPEP 2141.] Secondary considerations include whether the invention met with commercial success, whether the invention answered a long felt need, and whether others attempting the invention have failed. *Graham*, 383 U.S. at 17-18. Further, in applying the *Graham* framework, the Examiner must consider the invention as a whole, without the benefit of hindsight. [See e.g. MPEP 2141.]

Claims 9, 33, and 45

Claims 9, 33, and 45 stand rejected under sec 103(a) as being obvious in view of Chen and Jones combined. Applicant respectfully disagrees.

Claims 9, 33, and 45 include the recitation that the media data servers are separate and independently operated from the meta data server(s). The independent operation includes without continuous observing by, and communicating with the meta data server. Thus, when viewed as a whole (as required by law), the invention being claimed requires a novel independent operation architecture for the meta and media servers.

In contrast, Chen teaches the employment of meta servers and media servers that are tightly coupled, including the continuous monitoring of the media servers by meta servers (see e.g. col. 11, lines 1-3), and Jones teaches the serving of a media file (having meta data interleaved therein) from an integrated web server system (see e.g. Fig. 6).

In responding to Applicant's arguments, the Examiner stated in paragraph 3 of the Final Office Action that "the metaserver can coordinate a plurality of multimedia server located in different geographic areas" can be translated as "media data server being separate and

independently operated from the meta data server". Applicant respectfully disagrees. Such interpretation is clearly in contrast to the plain meaning of "coordination" as the term is understood by those of ordinary skill. More importantly, it is in contrast of what Chen teaches as a whole, as exemplified by the passage in col. 11, lines 1-3, the metaservers of Chen are operated together, in coordination with each other, and not independent of each other as required by claims 9, 33, and 45.

Jones does not remedy the above discussed deficiencies of Chan. Thus, Chan and Jones do not teach or suggest the above discussed recitations of claims 9, 33, and 45, individually or in combination. Therefore, for at least the above reasons, claims 9, 33, and 45 are patentable over Chan and Jones combined.

Claims 10-15, 23, 25, 35-38, and 47-50

Claims 10-15, 23, 25, 35-38, and 47-50 stand rejected under sec 103(a) in view of Chen and Jones, and further in view of Hazra. Hazra does not remedy the above discussed deficiencies of Chen and Jones. Therefore, for at least the same reasons, claims 9, 33, and 45 remain patentable over Chen and Jones, even when combined in Hazra. Claims 10-15, 23, 25, 35-38, and 47-50 depend on either claim 9, 33 or 45, incorporating their recitations. Therefore, for at least the same reasons, claims 10-15, 23, 25, 35-38, and 47-50 are patentable over Chen, Jones and Hazra, individually or in combination.

Claims 18, 21, 34, and 46

Claims 18, 21, 34, and 46 stand rejected under sec 103(a) in view of Chen and Jones, and further in view of Wiser. Wiser does not remedy the above discussed deficiencies of Chen and Jones. Therefore, for at least the same reasons, claims 9, 33 or 45 remain patentable over Chen and Jones, even when combined in Wiser. Claims 18, 21, 34, and 46 depend on either claim 9, 33 or 45, incorporating their recitations. Therefore, for at least the same reasons, claims 18, 21 34 and 46 are patentable over Chen, Jones and Wiser, individually or in combination.

Claim 20

Claim 20 stands rejected under sec 103(a) in view of Chen and Jones, and further in view of Takahito. Takahito does not remedy the above discussed deficiencies of Chen and Jones. Therefore, for at least the same reasons, claim 9 remains patentable over Chen and Jones, even when combined in Takahito. Claim 20 depends on claim 9 incorporating its recitations.

Therefore, for at least the same reasons, claim 20 is patentable over Chen, Jones and Takahito, individually or in combination.

VIII. CONCLUSION

Appellant respectfully submits that all the appealed claims in this application are patentable and requests that the Board of Patent Appeals and Interferences overrule the Examiner and direct allowance of the rejected claims.

This brief is submitted in triplicate, along with a check for $500 to cover the appeal fee for one other than a small entity as specified in 37 C.F.R. §1.17(c). We do not believe any fees, in particular extension of time fees, are needed. However, should that be necessary, please charge our Deposit Account No. 500393. In addition, please credit any overages to the same account.

Respectfully submitted,
SCHWABE, WILLIAMSON & WYATT, P.C.

Date: December 27, 2005

by: _____
Al AuYeung
Reg. No.: 35,432

Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97222
Telephone: 503-222-9981

APPENDIX A – Listing Of Claims

1. (Withdrawn) A method for obtaining media data in a client device, the method comprising:

requesting media data from a meta data server;

receiving meta data from the meta data server, the meta data being associated with the requested media data, and identifying one or more media data servers having the media data, and the one or more media data servers being operated independent of the meta data server, including without substantive continuous observation by, and communication with the meta data server;

using the received meta data to locate at least one of the one or more media data servers; and

accessing the requested media data from the at least one of the located media data server.

2. (withdrawn) A distributed media network system comprising:

at least one meta data server, wherein in response to receiving a request for media data the meta data server provides meta data associated with the requested media data;

one or more media data servers separate and independently operated from the meta data server, including without substantive continuous observation by, and communication with the media data server, wherein said meta data provided by the meta data server includes identification of at least one of the one or more media data servers having the media data; and

at least one client connected to the meta data server for transmitting a request for media data to the meta data server, the client using the meta data received

from the meta data server to locate at least one of the one or more media data servers and access the requested media data.

3-4. (Cancelled)

5. (Withdrawn) The system as in claim 2, wherein a second client of said at least one client functions as a first media data server of said one or more media data servers, and wherein the one or more meta data servers inform said at least one client that said second client has said requested media data.

6-8. (Cancelled)

9. (Previously Presented) A method for servicing media data requests in a meta data server, the method comprising:

receiving a media data request from a client, the request received by a meta data server;

retrieving meta data associated with the media data request from a meta data database, the meta data identifying a media data server having the requested media data, the media data server being separate and independently operated from the meta data server, including without continuous observation by, and communication with the meta data server; and

transmitting the meta data to the client for use by the client to locate the media data server to retrieve the media data.

10. (Previously presented) The method of claim 9, wherein the meta data contains an address of said media data server, and the method further comprises:

designating said media data server as a primary media data server, based upon at least criteria gathered from a communications network between the client and the media data server.

11. (Previously presented) The method of claim 10, wherein the media data server designated as a primary media data server is a media data server having a lowest number of clients accessing media data, among a community of media data servers having the media data.

12. (Previously presented) The method of claim 10, wherein the media data server designated as a primary media data server is a media data server having a highest reliability rating, among a community of media data servers having the media data.

13. (Previously presented) The method of claim 10, wherein the media data server designated as a primary media data server is a media data server having a highest data throughput, among a community of media data servers having the media data.

14. (Original) The method of claim 10, wherein the primary media data server is designated by the meta data server.

15. (Original) The method of claim 10, wherein the primary media data server is designated by the client.

16-17. (Cancelled)

18. (Previously presented) The method of claim 9, wherein the requested media data are encrypted, and the method further comprises:

requesting a decryption key for the requested media data from a meta data database, in response to another request from the client, subsequent to the providing of the meta data, and retrieving of the media data by the client; and

transmitting the decryption key to the client.

19. (Cancelled)

20. (Previously Presented) The method of claim 9, wherein said meta data comprises at least one data item, said at least one data item being selected from the list consisting of:

a network address of a primary media data server that has access to the media data;

a directory structure of the primary media data server;

a name of a file having the media data;

a network address of an alternate media data server that has access to the media data;

a directory structure of the alternate media data server;

a name of an owner of the media data;

a name of a composer of the media data;

a name of a copyright holder of the media data;

a network address of a graphic image server that has access to a graphical image associated with the media data;

a directory structure of the graphical image server;

a name of a graphical image file associated with the media data;

a title of an artistic work contained in the media data;

a title of a body of work in which the media data is associated;

a name of at least one performer of the media data;

a name of at least one composer of artistic work contained in the media data;

a name of at least one creators of the media data;

a network address of an information server that has access to additional information about artistic work contained in the media data;

a directory structure of the information server;

a name of a file that contains additional information about artistic work contained in the media data;

a network address of a sales server which offers a sale of the media data file;

a directory structure of the sales server;

a name of a file that contains information on a sale of the media data;

a network address of an associated sales server which offers a sale of associated products of the media data;

a directory structure of the associated sales server; and

a name of a file that contains information on sales of associated products of the media data.

21. (Previously presented) The method of claim 9, further comprising:

receiving a log-in request from the client; and performing a client access permission verification.

22. (Cancelled)

23. (Previously presented) The method of claim 9, wherein the meta data transmitted to the client are for a portion of the requested media data that is unusable without an additional portion of the requested media data, and the method further comprises:

receiving request from the client for additional meta data for the additional portion of the requested media data; and

transmitting the additional meta data to the client.

24. (Withdrawn) The method of claim 1, wherein the media data are encrypted, and the method further comprises:

requesting subsequently from the meta data server, after receipt of the media data, a decryption key of the media data; and

receiving the decryption key for the media data from the meta data server.

25. (Withdrawn) The method of claim 1, wherein the meta data received from the meta data server is for a portion of the requested media data that is unusable without an additional portion of the requested media data, and the method further comprises:

requesting subsequently from the meta data server, additional meta data for the additional portion of the requested media data;

receiving the additional meta data for the additional portion of the requested media data from the meta data server; and

accessing the additional portion of the requested media data using the additional meta data.

26. (Withdrawn) The system of claim 2, wherein the media data are encrypted, and the at least one meta data server is further adapted to transmit a decryption key to the client for using the media data.

27. (Withdrawn) The system of claim 2, wherein the meta data server is adapted to first transmit to the client, meta data for a portion of the requested media data, the portion of the requested media data being unusable without an additional portion of the requested media data, and then subsequently transmit to the client, additional meta data for the additional portion of the requested media data, the client using the additional meta data to access the additional portion of the media data from a media data server.

28. (Withdrawn) A method for obtaining media content in a client device, the method comprising:

requesting media content from a media service system,

receiving meta data from the media service system, the meta data associated with the requested media content, and identifying one or more electronic devices having the requested media content, the one or more electronic devices being independently operated, including without substantive continuous observing by, and communicating with the media service system;

using the received meta data to locate at least one of the one or more electronic devices on a network; and

accessing the requested media content from at least one of the located one or more electronic devices.

29. (Withdrawn) The method of claim 28, wherein the media content is encrypted, and the method further comprises:

requesting subsequently from the media service system, after receipt of the media content, a decryption key for the media content; and

receiving the decryption key for the media content from media service system.

30. (Withdrawn) The method of claim 28, wherein the media content received from the electronic device is for a portion of the requested media content that is unusable without an additional portion of the requested media content, and the method further comprises:

requesting subsequently from the media service system, additional meta data for the additional portion of the requested media content;

receiving the additional meta data for the additional portion of the requested media content from the media service system; and

accessing the additional portion of the requested media content using the additional meta data.

31. (Withdrawn) The method of claim 28, wherein the electronic device is a computer system.

32. (Withdrawn) The method of claim 28, wherein the requested media content is accessed from the electronic device over the Internet.

Note: Previous incorrectly numbered claim 32, renumbered to claim 57, has been moved to the proper ordinal position following claim 56.

33. (Previously Presented) A method for servicing requests for media content by a media service provider, the method comprising:

receiving a request for media content from a client, the request received by a media service system managed by the media service provider;

retrieving meta data associated with the requested media content from a meta data database, the meta data identifying one or more electronic devices having the requested media content, the one or more electronic devices being separate and independently operated from the media service system, by an entity different from the media service provider, including without continuous observing by, and communicating with the media service system; and

transmitting the meta data to the client.

34. (Previously presented) The method of claim 33, wherein the requested media content is encrypted, and the method further comprises:

requesting a decryption key for the requested media content from a meta data database, in response to a subsequent request from the client; and

transmitting the decryption key to the client.

35. (Previously presented) The method of claim 33, wherein the meta data transmitted to the client are for a portion of the requested media content that is unusable without an additional portion of the requested media content, and the method further comprises:

receiving subsequent request from the client for additional meta data for the additional portion of the requested media content; and

transmitting the additional meta data to the client.

36. (Previously presented) The method of claim 33, wherein the electronic device is a computer system.

37. (Previously presented) The method of claim 33, wherein the requested media content is accessible from the electronic device over the Internet.

38. (Previously presented) The method of claim 33, wherein the requested media content is an audio file.

39. (Withdrawn) A computer program product for obtaining media content in a client device, the computer program product comprising a computer-readable medium containing computer program code for performing the operations of:

requesting media content from a media service system;

receiving meta data from the media service system, the meta data associated with the requested media content, and identifying one or more electronic devices having the media content, the one or more electronic devices being independently operated from the media service system, including without substantive continuous observing by, and communicating with the media service system;

using the received meta data to locate at least one of the one or more electronic devices on a network; and

accessing the requested media content from the located at least one of the one or more electronic devices.

40. (Withdrawn) The computer program product of claim 39, wherein the media content is encrypted, and the computer-readable medium further contains computer program code for performing the operations of:

requesting the media service system, a decryption key for the media content; and

receiving the decryption key for the media content from the media service system.

41. (Withdrawn) The computer program product of claim 39, wherein the media content received from the electronic device is for a portion of the requested media content that is unusable without an additional portion of the requested media content, and the computer-readable medium further contains computer program code for performing the operations of:

requesting from the media service system, additional meta data for the additional portion of the requested media content;

receiving the additional meta data for the additional portion of the requested media content from the media service system; and

accessing the additional portion of the requested media content using the additional meta data.

42. (Withdrawn) The computer program product of claim 39, wherein the electronic device is a computer system.

43. (Withdrawn) The computer program product of claim 39, wherein the requested media content is accessed from the electronic device over the Internet.

44. (Withdrawn) The computer program product of claim 39, wherein the requested media content is an audio file.

45. (Previously Presented) A computer program product for servicing requests for media content by a media service provider, and the computer program product comprises a computer-readable medium containing computer program code for performing the operations of:

receiving a request for media content from a client, by a media service system;

retrieving meta data associated with the requested media content from a meta data database, the meta data including identification of an electronic device having the requested media content, the electronic device being separate and independently operated from the media service system, including without continuous observing by, and communicating with the media service system; and

transmitting the meta data to the client.

46. (Previously presented) The computer program product of claim 45, wherein the requested media content is encrypted, and the computer-readable medium further contains computer program code for performing the operations of:

receiving a subsequent request from the client, for a decryption key for the requested media content; and

transmitting the decryption key to the client.

47. (Previously presented) The computer program product of claim 45, wherein the meta data transmitted to the client are for a portion of the requested media content that is unusable without an additional portion of the requested media content, and the computer-readable medium further contains computer program code for performing the operations of:

receiving a subsequent request from the client for additional meta data for the additional portion of the requested media content; and

transmitting the additional meta data to the client.

48. (Previously presented) The computer program product of claim 45, wherein the electronic device is a computer system.

49. (Previously presented) The computer program product of claim 45, wherein the requested media content is accessible from the electronic device over the Internet.

50. (Previously presented) The computer program product of claim 45, wherein the requested media content is an audio file.

51. (Withdrawn) A distributed media system comprising:

a media service system managed by a media service provider, wherein in response to receiving a request for media content the media service system provides meta data associated with the requested media content;

a plurality of electronic devices separate and independently operated from the media service system by an entity different from the media service provider, including without substantive continuous observing by, and communicating with the media service system, wherein the meta data includes identifying of the electronic devices having the requested media content; and

a client device for transmitting a request for media content to the media service system, the client device using the meta data received from the media service system to locate at least one of the electronic devices and access the requested media content therefrom.

52. (Withdrawn) The distributed media system of claim 51, wherein the media content is encrypted, and the media service system transmits a decryption key to the client device for using the media content, in response to a subsequent request for the decryption key from the client.

53. (Withdrawn) The distributed media system of claim 51, wherein the media service system transmits to the client device meta data for a portion of the requested media content, the portion of the requested media content being unusable without an additional portion of the requested media content, and the media service system further transmits to the client device additional meta data for the additional portion of the requested media content, in response to a subsequent request for the additional meta data from the client device, the client device using the additional meta data to access the additional portion of the media content from one or the electronic devices.

54. (Withdrawn) The distributed media system of claim 51, wherein the electronic devices are computer systems.

55. (Withdrawn) The distributed media system of claim 51, wherein the requested media content is accessed from an electronic device over the Internet.

56. (Withdrawn) The distributed media system of claim 51, wherein the requested media content is an audio file.

57. (Withdrawn) The method of claim 28, wherein the requested media content is an audio file.

APPENDIX B – Copies Of Evidence Submitted

No evidence has been submitted under 37 C.F.R. 1.130, 1.131, or 1.132. No evidence entered by Examiner has been relied upon by Appellants in the appeal.

APPENDIX C – Related Proceedings

The appellant's undersigned attorney and the assignee identified above are not aware of other appeals or interferences that would directly affect or be directly affected by, or have a bearing on the Board's decision in the subject appeal.